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COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-second session

SUMMARY RECORD OF THE 3rd MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 26 April 2000, at 10 a.m.

Chairperson: Mrs. BONOAN-DANDAN

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GE.00-41591 (E)

The meeting was called to order at 10.10 a.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6)

Initial report of Georgia (E/1990/5/Add.37; HRI/CORE/1/Add.90; E/C.12/A/GEO/1; E/C.12/Q/GEO/1; HR/CESCR/NONE/1999/15)

1. At the invitation of the Chairperson, the members of the delegation of Georgia took places at the Committee table.

2. Ms. BERIDZE (Georgia) said that after 70 years of a totalitarian regime that had left profound scars on Georgia's economic, social, cultural and spiritual life, her country had been engaged in a process of social and State democratization since 1991, the year of its independence. The Georgian Government was striving to lay the foundations of a democratic society, establishing the primacy of the law and launching, among other things, a reform of the judiciary. In that connection, the realization of economic, social and cultural rights was of crucial importance. Preparation of the report had served as an opportunity to examine not only the weaknesses and problems, but also the progress achieved.

3. Georgia was experiencing a difficult period involving the transition from a State-run to a market economy and domestic conflicts in Abkhazia and South Ossetia. Despite the progress in recent years (currency stabilization, control of inflation, rise in GDP) problems such as poverty, high unemployment, inadequate allocation of resources to education and social security, the energy crisis and corruption still persisted. It was of no avail for Parliament to legislate, for the effective exercise of economic, social and cultural rights was hampered by the financial and budgetary crisis. Internal debt had soared owing to the country's failure to pay salaries and pensions. A ministry had recently been created to look after fiscal and customs matters in an effort to improve tax recovery. A huge privatization programme had been launched with a view to guaranteeing all citizens' economic independence as far as possible, and to protect them from arbitrary State interference. Social reforms continued, despite the economic difficulties, and a ministry had been created to deal with health and social security.

4. In January 2000 the Georgian Government had adopted a long-term plan in which social development objectives had been set. The main problem to be solved was poverty. People able to work required help in finding jobs, while the others needed adequate protection. President Shevernadze, recently re-elected, was doing his utmost to improve the economic situation (increasing tax revenue, creating jobs, attracting investment, rationalizing management, and privatizing), as well as the social situation (through reform of the pension system and improved health and education systems). The State party would describe the results in its second periodic report, due in June 2001. In that connection, she pointed out that a body responsible for the preparation of reports to the United Nations treaty bodies had been set up within the National Security Council.

5. Mr. SADI asked whether Georgia had ensured that its legislation and practices conformed to the Covenant when it had acceded to that instrument. He sought details relating to budget allocations to the economic, social and cultural sectors. Had the regional conflicts had any repercussions on the measures taken by the authorities? How had the transition from a State-run to a market economy been effected? Had there been any increase in ordinary and organized crime?

6. Mr. ANTANOVICH said he wished to know the rate of inflation and how it fluctuated. He requested details concerning privatization of land. Did the law permit the sale of real estate? How did it actually work? Who was willing to buy? Did foreigners enjoy the right to purchase?

7. Mr. CEAUSU said he did not fully understand the reasons for the inadequacy of the resources allocated to social and cultural programmes. What was the current state of the national economy? Which were the main branches of economic activity? What, for instance, was the share of industrial production, agriculture and services, especially banking, in GDP? What was the status of the economic reforms, especially the restructuring and privatization of industry? Lastly, he called for more detailed information on the level of taxes paid by businesses, merchants and wage-earners.

8. Mr. TEXIER asked what the current reform of the judiciary involved and whether it would make the judicial system more independent. He also wished to know which sectors would be affected by the large-scale privatization programme provided for in the President's plan of action. What consequences would it have for the main social budgets, the essential State sector and, more particularly, the State's obligation to ensure observance of economic, social and cultural rights in general, particularly those of the most disadvantaged strata of population? What effect was it expected to have on poverty?

9. Ms. BERIDZE (Georgia) said economic, social and cultural rights were enshrined in chapter II of the Georgian Constitution. Following its adoption, the country's legislation had been brought into line with the Covenant, which could now be invoked before the Georgian courts. International agreements, conventions and covenants formed an integral part of Georgian law and prevailed over domestic laws. If the provisions of a new law should contradict an international instrument, they would be amended accordingly.

10. Regional conflicts had had a highly adverse impact. The protection of some 280,000 displaced persons in particular placed a heavy burden on Georgia's budget. Unlike the state of affairs in Abkhazia, where living conditions were extremely difficult, the situation was better in South Ossetia and the rest of Georgia.

11. Human rights were protected by many bodies, but the prime role in that field was played by the judiciary, which was independent of the State and impartial. With the adoption of the law governing the judiciary, the country had been able to renew its Bench and select more qualified candidates. Women and men currently enjoyed equal representation on the judiciary. The law also made it possible to pay judges a decent salary and hence reduce the risk of corruption.

12. Mr. JIBUTI (Georgia) said his country was experiencing myriad problems, many of them spawned by communism. Following his country's struggle for independence, Georgians had

accorded priority to political rights. That was why, when the country had become party to the Covenants and other international human rights instruments, many had doubted that economic, social and cultural rights would be effectively exercised in Georgia.

13. The transition to a market economy had had significant consequences, including the emergence of unemployment, previously considered a crime in the Soviet Union. Following independence, unemployment had become a reality and new mechanisms had been needed to cope with it, but that had not always been possible. During the early years following the country's liberation (1992-1994), Georgia had had no annual budget, but had simply established estimates to cover a few months at a time. In 1992 budgetary income had reached the equivalent of approximately US$ 100,000. Since 1995 Georgia had adopted a budget law every year, so that there was currently a genuine budget system, although it needed a few finishing touches.

14. With regard to the budget for social and cultural matters, health and social security had accounted for 25 per cent of allocations in 2000. Expenditure on culture and education accounted for some 8 per cent of the budget, while social and cultural spending made up approximately 35 per cent of the total. Spending on health and education, to give an example, was spread out over various sectors, making it rather difficult to give a global expenditure figure. Moreover, the figures supplied did not fully reflect the real situation, for the budget had to be implemented, which raised the thorny problem of the shortfall in revenue actually raised. What was more, the budget did not allow for funds to be allotted to infrastructure.

15. Regional conflicts had adverse effects on the economy. Abkhazia and South Ossetia, which did not come under government control, provided sanctuary for smugglers and other criminals. The adoption of a market economy had, for its part, also had certain adverse effects such as bank fraud and money laundering. Georgia had posted an inflation rate of 8-9 per cent in 1997-1998 and 10 per cent in 1999. Average per capita income was in the region of US$ 600. The fact that anyone, irrespective of nationality, could buy and sell land had created a property market, stimulated by purchases by foreigners.

16. Georgia was as yet in no position to provide a decent living for its citizens, as borne out by the late payment of salaries. However, salaries and social contributions alike were protected by budget regulations in that the State could not undertake budget spending unless social contributions and salaries had been paid. Georgia had not been indebted in 1996-1997, having received substantial assistance, but since then it had sought to be as autonomous as possible, which had translated into the emergence of a budget deficit with the serious negative consequences it entailed. Georgia, once part of the Soviet economy, had produced machinery, aeroplanes and ships, among other things, and had even possessed steel, chemical and other industries. The goods thus produced had been destined for the Soviet market. Following the country's accession to independence, those industries had not, as a rule, been able to cope with the competition. The sectors that survived were agriculture - whose production had fallen by some 60 per cent - and services, trade and communications. Virtually all small and medium-sized enterprises had been privatized, and some of them had been sold at a nominal price. Privatization of businesses had resulted in the free distribution of some shares to workers and been accompanied by a change in activity. Formerly, those businesses had represented a burden for the State and added to the public debt. Land privatization had had beneficial effects: it was the free allocation of 1.25 hectares to each family that had enabled a famine to be avoided,

since agricultural production had increased considerably in the years just after that privatization. At the microeconomic level, tax recovery perhaps constituted the biggest problem. The potential revenue was in fact many times the amount established in the budget. The Government was determined to address the various economic problems and trusted that the situation would have improved by the time of the next report.

17. Mr. CEVILLE considered it a positive development that the International Covenant on Economic, Social and Cultural Rights could be invoked before the courts, but regretted that, in practice, Georgians did not as yet have recourse to that possibility because of their poor level of civic education. What measures were the authorities taking to remedy the situation?

18. Mrs. JIMÉNEZ BUTRAGUEÑO requested further information on Georgia's budgetary system.

19. Mr. KOUZNETSOV pointed out that in its analysis of Georgia's situation, contained in the country profile (E/C.12/A/GEO/1), the secretariat had mentioned a report from the United States Department of State that the ombudsman devoted most of his time to economic and social rights. He would like to know if that was indeed the case, and, if so, how the ombudsman worked. He also asked why inflation had risen to 10 per cent in 1999, when it had previously been lower.

20. Ms. BERIDZE (Georgia) said that, largely as a result of international assistance, improvements had been made in education in the laws. For instance, the authorities were providing education in the regions on the international human rights instruments, the text of which had been distributed to the public free of charge. Once funds became available, the Government would distribute, also free of charge, 3,000 copies of the compilation of international human rights instruments. Study of those texts had also been incorporated into school syllabuses. Moreover, the media were endeavouring to raise awareness of human rights, and defendants could receive free legal aid. Georgia was therefore making progress in that field, although all the problems had not yet been solved. Only after independence had most Georgians heard of human rights for the first time. The United States Department of State's assertion that the ombudsman devoted most of his time to economic and social rights was an unjustified criticism. It must be borne in mind that immediately after independence, in the euphoria of freedom regained, attention had focused mainly on civil and political rights. However, those rights were inseparable from economic, social and cultural rights. With regard to the way in which the ombudsman worked, he had, for instance, visited displaced persons and had done his best to resolve their problems.

21. Mr. JIBUTI (Georgia) explained that between 1994 and 1998 the inflation rate had dropped from three or even four digits to a single digit (8-9 per cent). However, the August 1999 crisis in the Russian Federation, Georgia's main economic partner, had obliged his country to modify its monetary policy and exchange-rate system: the State had ceased to intervene on the exchange market and allowed its currency to float. That had certainly led to a period of fluctuation; but the inflation rate had now stabilized at 10 per cent.

22. The CHAIRPERSON invited Committee members who so wished to put questions or make observations on the State party's replies (HR/CESCR/NONE/1999/15) to the questions on the list of issues (E/C.12/Q/GEO/1).

23. Mr. RIEDEL welcomed the establishment of the post of independent ombudsman with extensive powers. He observed, however, that it had been stated in the 1997 report of the Human Rights Committee that the post had not yet been filled. When had that been done? And had the incumbent reported on any cases submitted to him or her? If so, did the report deal with issues relating to economic, social and cultural rights? Was it in the ombudsman's remit to look into how such rights were exercised? In conclusion, he was pleased that the Georgian Government was actively encouraging the adoption of an Optional Protocol to the Covenant.

24. Mr. HUNT asked whether economic, social and cultural rights formed part of the mandate of the human rights commissions established in Georgia in the wake of the November 1998 elections. Were those commissions actually independent, within the meaning of the Paris Principles relating to the status of national institutions for the promotion and protection of human rights? He also wished to know whether Georgia had prepared a national plan of action on human rights, in accordance with the Vienna Declaration. If it had not, it would be desirable for the Georgian Government to prepare a plan which, albeit comprehensive, was centred on economic, social and cultural rights, in view of the poverty prevailing in the country. Lastly, he inquired whether the obligations deriving from the Covenant had been taken into account in the preparation of the social sector reforms. The need to take them into account could not be overstated, particularly since conformity with the Covenant could mitigate some of the adverse effects of unbridled privatization, especially on the most vulnerable groups.

25. Mr. ANTANOVICH, noting that Georgia had a great many human rights institutions and mechanisms, asked exactly what their respective powers were and whether there was any risk of overlapping or duplication.

26. Mr. CEAUSU expressed surprise that all matters concerning protection of human rights were the responsibility of the National Security Council at the executive level, while in other countries they usually fell to the Ministry of Justice. Regarding the place of national instruments in the Georgian legal system, it was stated in paragraph 84 of the core document (HRI/CORE/1/Add.90) that treaties and agreements concluded by Georgia which did not conflict with the Georgian Constitution took precedence over the provisions of domestic law. Did that mean that the Constitutional Court could declare a provision of an international treaty ratified by the Government to be in conflict with the Georgian Constitution?

27. Mr. GRISSA asked whether, in preparing statistics on gross domestic product (GDP), the Georgian Government employed the techniques previously used in the former Soviet Union, or the methods applied in the countries of the West. The written replies submitted by the State party declared annual per capita income to have been 560 lari at 1 January 1999: 438 lari in cash and 122 lari in kind. To what did the "in kind" portion refer, and how was it arrived at? Did it apply to all sectors of the economy, or only to agriculture? Lastly, he considered the minimum wage of 20 lari in July 1999 to be a mere pittance, representing as it did barely 4 per cent of per capita income. How could workers meet their basic needs in those conditions and on such a wage?

28. Mr. WIMER ZAMBRANO requested more detailed information on the current situation of the conflict in Abkhazia and South Ossetia.

29. Ms. BERIDZE (Georgia) noted that under the Constitution the protection of human rights and fundamental freedoms was in the remit of an ombudsman, who had been elected to Parliament on the majority ticket for a 5-year term. The ombudsman was empowered to disclose all human rights violations and report them to the competent organs. Anyone obstructing the fulfilment of that mandate was liable to prosecution. An organic law had been adopted which bestowed enormous powers on the ombudsman. That having been said, the post of ombudsman was new to Georgia, hence the difficulties encountered in its establishment. If the post was currently vacant, once again, it was simply because the incumbent had recently been elected to Parliament. His deputy would be directing operations until a successor had been appointed, which should take place immediately following the new president's investiture scheduled for 30 April 2000. The National Security Council had already received six nominations from NGOs, Parliament and the Office of the President.

30. Replying to a question on the protection of human rights, she said citizens' security was part and parcel of the defence of their rights and fundamental freedoms. Consequently, it was quite normal that the National Security Council should be responsible for the protection of human rights. The Council's mandate derived from the decree promulgated by the President of the Republic, who, under the Constitution, was the guarantor of rights and fundamental freedoms in the country. The Council had already done an enormous amount of work. For that reason, in the interests of national reconciliation, the current President of the Republic had recently requested it to take the necessary measures to release 65 supporters of former President Gamsakhourdia, who had been overthrown in December 1991. Those persons, who considered that they had been imprisoned for purely political reasons, had been released along with hundreds of others who had taken part in the struggle for Georgia's territorial integrity. The Council was also responsible for preparing the reports that the Government of Georgia submitted to the various United Nations bodies, coordinating and harmonizing the various contributions of the relevant ministries.

31. The human rights commissions had been created within the local representative bodies, and their functions included assisting citizens whose rights had been violated. If the latter did not obtain satisfaction, they could take their case to the National Security Council, the ombudsman or the NGOs, with which Georgia maintained very close cooperation.

32. The Constitutional Court could in principle challenge a provision of the Covenant considered to conflict with the Constitution. In fact, when Georgia had adopted its Constitution in 1995 it had already been a party to the Convention on the Elimination of All Forms of Discrimination against Women and to the Convention on the Rights of the Child. In drafting the Constitution, Georgia had therefore taken into account the various provisions contained in those instruments, ensuring that there was no contradiction between those texts and the Constitution. As to the International Convention on the Elimination of All Forms of Racial Discrimination and the European Convention on Human Rights, to which Georgia had acceded after adopting its Constitution, the country had ensured that there was no incompatibility between those texts and the Constitution. In any case, an article of the Georgian Constitution provided that it could be

amended in the event of a conflict between one of its rules and a provision of an international instrument to which the country wished to accede. Also, there was currently no national plan of action on human rights. Replying to the question concerning Abkhazia and South Ossetia, she said progress was being made towards a political settlement, but the process was slow and difficult and the situation was prejudicial both to Georgia and to those two territories.

33. Mr. JIBUTI (Georgia) said that with regard to social reform, considerable progress had been achieved and that Georgia's main goal was to combat poverty. The Georgian Government intended to sign the European Social Charter but could not achieve that goal unaided. An agreement had been concluded with the World Bank on ways of reforming the pension system, talks were in progress with IMF, and collaboration had been established with ILO within its fields of competence. Since the statistical reform, GDP indicators were calculated using the IMF methodology. As for the expression "income in kind", it referred to the produce which certain families reaped from plots of land; it constituted their sole source of income and did not enter the commercial circuit. Concerning the minimum wage, a purely symbolic indicator had been in place since 1999, but the actual minimum wage was quite close to that indicator.

34. In conclusion, since the submission of the Government's written replies to the list of issues (HR/CESC/NONE/1995/15), economic programmes had been adopted in Abkhazia and South Ossetia; and health programmes in South Ossetia, financed from the Georgian central budget, had set the stage for economic cooperation.

35. The CHAIRPERSON invited Committee members to put questions on the State party's replies concerning articles 2 and 3 of the Covenant.

36. Mr. CEAUSU asked whether all persons residing in Georgia when independence had been declared, including former Soviet citizens, had automatically been awarded Georgian citizenship.

37. Mr. ANTONOVICH asked whether any government institution existed for ensuring that displaced persons were not discriminated against in regard to employment. He also wished to know whether Georgia had set up a department responsible for the children of displaced families, whose needs included additional linguistic and psychological assistance.

38. Mr. GRISSA, referring to displaced persons, asked what had been the impact of the influx of Chechen refugees on Georgia.

39. Mr. SADI, pointing out that Georgia consisted of many nationalities and many religions, asked how the country managed not to discriminate against any of them.

40. Mr. TEXIER inquired whether only access to the civil service was barred to foreigners, whether that restriction also applied to other sectors, such as labour, health and education, and whether, in that event, foreigners and displaced persons enjoyed the same rights as nationals. As to equality between men and women, he wished to know whether women received the same or less pay than men for equal work, and whether they could accede to positions of responsibility on an equal footing as men, either in the civil service or in the private sector.

41. Mrs. JIMÉNEZ BUTRAGUEÑO wondered whether over-protection of women was not a means of confining them to a purely domestic role.

42. Mr. HUNT asked whether the Georgian Constitution prohibited discrimination against the disabled.

43. Ms. BERIDZE (Georgia) replied that the law governing citizenship, adopted in 1993, had exceptionally conferred citizenship on all persons residing in Georgia at the time of independence. Georgian citizenship could be acquired by birth or naturalization, but dual nationality was not allowed.

44. Mr. JIBUTI (Georgia) added that a person had to be of Georgian nationality to be able to work in the civil service, except in some sectors where there was a particular shortage of specialized staff.

The meeting rose at 1 p.m.